

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HI-RISE TECHNOLOGY, INC.,

Plaintiff,

v.

AMATUERINDEX.COM,

Defendant.

No. C07-349MJP

ORDER REGARDING PUBLICATION  
OF NOTICE

This is an in rem action brought by Plaintiff Hi-Rise Technology, Inc. against the domain name “amatuerindex.com” pursuant to the federal Anti-Cybersquatting Consumer Protection Act (ACPA). Plaintiff has registered a service mark for “The Amateur Index.” The domain name “amatuerindex.com” is registered to an organization called Jasper Developments, which provided an address in Melbourne, Australia when it registered the domain name. Through this action, Plaintiff seeks an order to transfer the “amatuerindex.com” domain name to Plaintiff.

By order dated June 27, 2007, the Court denied Plaintiff’s “Motion for Temporary Restraining Order, Preliminary and Permanent Injunction,” finding that Plaintiff had not satisfied the requirements for the injunctive relief requested. (Dkt. No. 6.) In the same order, the Court also found that Plaintiff should be required to publish notice of this action in Melbourne, Australia. The Court directed publication of notice pursuant to provisions of the ACPA which provide that a court may direct publication of notice of an in rem action brought under the statute. The Court directed Plaintiff to

1 provide the Court with a proposed form of notice within 14 days, along with a proposal regarding  
2 where such notice should be published in Melbourne, Australia.

3 In response to the Court's order, Plaintiff has submitted a "Proposal Regarding Publication."  
4 (Dkt. No. 8.) Having reviewed this submission, the Court finds and ORDERS as follows:

5 (1) Plaintiff's "Proposal Regarding Publication" appears to ask the Court to reconsider  
6 provisions of its order dated June 27, 2007, including the Court's finding that publication of notice  
7 should be required. The Court declines to reconsider its June 27th order. Local Civil Rule 7(h)(1)  
8 provides that motions for reconsideration must "be plainly labeled as such." Here, Plaintiff's  
9 "Proposal Regarding Publication" is not labeled as a motion for reconsideration and the Court will not  
10 construe it as such.

11 (2) Plaintiff has proposed that notice of this action should be "posted with other notice in  
12 the classified section online at <http://www.theage.com.au>." (Dkt. No. 8 at 9.) Plaintiff has proposed  
13 that the notice should read as follows:

14 Litigation has been initiated in the U.S. against Jasper Developments, PFO Box 1188,  
15 Melbourne, VIC 3001, AU. For further information contact [lind\\_matthew@yahoo.com](mailto:lind_matthew@yahoo.com),  
[david@dwnancellc.com](mailto:david@dwnancellc.com), or go to <http://www.dwnancellc.com/jasper/amatuerindexdotcom>  
16 Complaint.pdf.

17 Id.

18 It appears that Plaintiff is proposing publication in a newspaper called "The Age." Aside from  
19 a website address, Plaintiff has not provided the Court with any information regarding this publication.  
20 However, the website for "The Age" indicates that it is a newspaper serving Melbourne, Australia.  
21 Therefore, the Court finds that publication of notice in this newspaper would be appropriate. Plaintiff  
22 is advised that the Court will require publication of notice in both the print and online editions of "The  
23 Age."

24 With respect to the form of the notice, Plaintiff's proposed notice does not identify Plaintiff,  
25 the nature of the litigation, the domain name at issue, or the Court in which the action is pending.

1 Plaintiff's proposed notice is also not accurate to the extent it suggests that litigation has been initiated  
2 against "Jasper Developments," when in fact the litigation has been initiated against the domain name  
3 in rem. Therefore, the Court directs Plaintiff to publish notice in the form set forth below, rather than  
4 in the form proposed by Plaintiff:

5 PLEASE TAKE NOTICE that Hi-Rise Technology, Inc. has filed a lawsuit in rem against the  
6 Internet domain name "**amatuerindex.com**" in the United States District Court for the  
7 Western District of Washington. The "**amatuerindex.com**" domain name is registered to  
8 **Jasper Developments**, PFO Box 1188, Melbourne, VIC 3001. The lawsuit seeks a transfer of  
9 the "**amatuerindex.com**" domain name to Hi-Rise Technology, Inc. This case is pending before  
10 U.S. District Judge Marsha Pechman and has been assigned case number C07-349MJP. If the  
11 registrant of the domain name does not file a written answer in this proceeding within 20 days  
of the publication of this notice, a default judgment may be entered for the relief demanded in  
the complaint. Hi-Rise Technology is represented by attorney Matthew Lind, who may be  
contacted at lind\_matthew@yahoo.com. A copy of the complaint is available at  
[http://www.dwnancellc.com/jasper/amatuerindexdotcom\\_Complaint.pdf](http://www.dwnancellc.com/jasper/amatuerindexdotcom_Complaint.pdf). Information about  
the United States District Court for the Western District of Washington is available at  
<http://www.wawd.uscourts.gov>.

12 Plaintiff is directed to file proof of publication promptly after this notice has been published in The  
13 Age. If an answer to the complaint is not filed within 20 days of publication of this notice, Plaintiff  
14 may file a motion for entry of default under Fed. R. Civ. P. 55(a). If default is entered under Rule  
15 55(a), Plaintiff may then move for a default judgment under Fed. R. Civ. P. 55(b).

16 (3) The clerk is directed to send copies of this order to all counsel of record.

17 Dated: August 2, 2007.

18  
19 s/Marsha J. Pechman  
20 Marsha J. Pechman  
21 United States District Judge  
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